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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 UNITED STATES OF AMERICA,
12 Plaintiff,
13 v.
14 DAVID ENRIQUE MEZA,
15 Defendant.
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Case No.: 15cr3175 JM

**ORDER CLARIFYING COURT'S
RULING ON DEFENDANT'S
REQUEST TO ADMIT DETECTIVE
BROWN'S REFERENCE TO
"MISCARRIAGE"**

18 On April 18, 2017, counsel for Defendant David Meza orally requested a ruling
19 regarding whether San Diego Police Department Detective James Brown's reference to
20 miscarriage during Defendant's June 2015 interrogation made Defendant's statement
21 involuntary. Relatedly, Defendant sought to introduce the miscarriage reference. The
22 court ruled that the reference did not render Defendant's statement involuntary, and after
23 tentatively denying Defendant's request to introduce the reference, the court ultimately
24 granted the request. This order serves to clarify those rulings.

25 **BACKGROUND**

26 In May 2016, Defendant filed a motion to suppress the statement he made to
27 Detective Brown and FBI Special Agent Eric Van Houten. (Doc. No. 53.) Defendant's
28 primary argument was that he was in custody at the time of the interview, and therefore

1 entitled to Miranda warnings, but Detective Brown did not provide those warnings or
2 obtain a knowing and intelligent waiver of Defendant's Miranda rights. Defendant also
3 argued that his statement was coerced and therefore involuntary. On this point,
4 Defendant focused on the extensive police presence at the scene of the interview and
5 Detective Brown's suggestion that Defendant's fiancée might have another miscarriage
6 as the result of Defendant's failure to confess.

7 In opposing Defendant's motion, the Government represented that Detective
8 Brown's reference to the miscarriage was "outside of the statement sought to be
9 introduced by the Government in its case in chief." (Doc. No. 64 at 27.)

10 On August 25, 2016, the court denied Defendant's motion. (Doc. No. 83.) The
11 court determined that Defendant was indeed in custody, but had been provided adequate
12 Miranda warnings and knowingly waived his rights. Because the Government asserted
13 that it would not use any statements made after Detective Brown's reference to
14 miscarriage, the court did not address that issue in its order. The court reasoned that even
15 if the interrogation became arguably coercive at that point, the Government's decision
16 not to introduce any evidence obtained after that point made the issue moot.¹

17 DISCUSSION

18 On April 18, 2017, one week after trial had begun in this case and just before the
19 Government was set to put Detective Brown on the stand and introduce Defendant's
20 statement, Defendant requested clarification of the court's previous order. Specifically,
21 Defendant asked the court to rule on whether Detective Brown's reference to miscarriage
22 made Defendant's statement involuntary. Defendant referred to United States v. Tingle,
23 658 F.2d 1332 (9th Cir. 1981), a Ninth Circuit case that lays down a broad prohibition on
24 eliciting a confession by reference to a defendant's children, which Defendant had not
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26 ¹ Similarly, though the order did not explicitly discuss the issue, the court determined that
27 the surrounding circumstances of the interrogation, including the number of police
28 officers present, the manner in which the search warrant was executed, and the location
of the interrogation did not make Defendant's statement involuntary.

1 discussed or cited in its May 2016 motion.

2 The court noted that because the Government had repeatedly made clear that it did
3 not intend to introduce any part of Defendant's statement after Detective Brown's
4 miscarriage reference, the reference did not affect the voluntariness of the portion of the
5 statement the Government did intend to introduce, and therefore the issue was moot. The
6 court also ruled that, regardless, Detective Brown's reference fell short of the conduct
7 proscribed by Tingle. Accordingly, the court ruled that Defendant's statement was not
8 involuntary on the basis of Detective Brown's reference.

9 In addition to that request for a ruling, Defendant also requested the court's
10 permission to introduce Detective Brown's reference himself. Specifically, Defendant
11 sought to play the following passage, in which Detective Brown says:

12 You lied about that. Now, why would ya lie about that?
13 Because of the obvious. You go down there with your
14 girlfriend. Pregnant girlfriend, holding your child. Putting her
15 in harm's way. If not harm's way in Tijuana, which is just g- a
16 glaring, like, are you kidding me? At least you're putting her in
17 harm's way with me. What do you think I'm gonna do to her
18 when I get a hold o' her? Do you think those guys have been
19 jumping up inside o' her? Not until I get a hold of her. She's
20 now a suspect. You made her that. She is now a suspect in a
21 homicide. A murder. And you made her that. The mother of
22 your child. The one that is b- you already had one miscarriage.
23 To- how- what do you think's gonna happen when I tell her
24 that she's under arrest for murder?

25 The court initially denied Defendant's request because the Government did not
26 intend to introduce that reference or any portion of Defendant's statement that followed
27 the reference. The court further observed that Defendant's affirmative use of the
28 reference as part of his strategy would, in essence, "invite" or introduce an element into
the case that he had previously—and successfully—objected to, as the Government
asserted in response to his motion to suppress that it would not introduce any part of the
statement after the miscarriage reference.

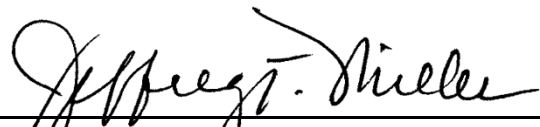
1 The court reconsidered its ruling, however, in light of Defendant's stated intent to
2 affirmatively use the miscarriage reference—as a sword rather than a reason to exclude
3 the entire statement—presumably to demonstrate the tactics employed by Detective
4 Brown, as well as Defendant's continued resistance to any suggestion he killed Jake
5 Merendino. Given the agreement of both the Government and Defendant that a portion
6 of Defendant's statement following the miscarriage reference would be admitted as
7 evidence if the court allowed Defendant to introduce the reference, the court ruled that
8 Defendant could introduce the miscarriage reference into evidence.²

9 **CONCLUSION**

10 In sum, the court finds (1) Detective Brown's reference did not impact the portion
11 of Defendant's statement that the Government initially intended to offer in its case in
12 chief; (2) Tingle does not render Defendant's statement after the miscarriage reference
13 involuntary; (3) Defendant was entitled to affirmatively introduce Detective Brown's
14 reference to miscarriage.

15 IT IS SO ORDERED.

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17 DATED: April 19, 2017

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20 JEFFREY T. MULLER
21 United States District Judge
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27 ² In response, the Government sought to admit a limited portion of Defendant's statement
28 that came after the miscarriage reference only if the court allowed the reference to be
admitted at Defendant's behest. Defendant stipulated his agreement to that request.